

## **REMARKS**

### **STATUS OF THE CLAIMS**

Claims 1-3, 6-18, 20-24, 27, and 57-86 were pending and were subject to a Restriction Requirement that has been made FINAL. Applicants elected Group 6 with traverse and claims 57, 60 and 62-71 were examined. Examined claim 57 has been amended to specify that the binding site comprises a target site (nucleic acid sequence), as described for example on page 11, lines 1-3. Withdrawn claims 1, 21 and 72 have been similarly amended. Thus, claims 1-3, 6-18, 20-24, 27, and 57-86 remain pending.

### **RESTRICTION REQUIREMENT**

As noted above, the Restriction Requirement has been made FINAL. (Office Action, paragraph 1). Applicants reserve the right to petition this requirement at any time before filing an appeal.

In addition, Applicants note the Examiner's confirmation (page 5 of the Office Action), that, upon allowance of a linking claim, Restriction between Groups 4-6 (claims 58, 59, 61-64, 67 and 68) will be withdrawn and these claims will be examined in this application.

Furthermore, Applicants request rejoinder of process claims 1-3, 6-18, 20-24, and 72-86 when the elected product claims are found allowable. These process claims are commensurate in scope with the elected product claims.

### **INFORMATION DISCLOSURE STATEMENT**

Applicants note with appreciation return of the signed and initialed 1449 forms.

### **SPECIFICATION**

The specification was objected to for containing an embedded hyperlink. (Office Action, paragraph 3). Applicants have removed the hyperlink by amendment herein, thereby obviating this objection.

### **35 U.S.C. § 102(B)**

Claims 57, 62-68, 70 and 71 were rejected as allegedly anticipated under 35 U.S.C. § 102(b) by Aoki et al. (1998) *J. Biol. Chem.* 273(41):26698-26704 (hereinafter "Aoki"). (Office Action, paragraph 5). Aoki was cited for allegedly disclosing a complex of RP58, a DNA binding protein having zinc finger motifs. *Id.*

Because Aoki does not describe or demonstrate a complex between an exogenous

molecule and a binding site in an accessible region of cellular chromatin, Applicants traverse the rejection and supporting remarks.

Pending claims 57, 62-68, 70 and 71 are drawn to complexes between an exogenous molecule and a binding site in an accessible region of cellular chromatin. As defined in the specification, for example, on page p. 4, lines 9-12, p. 11, lines 9-15 and p. 13, line 10 ff., accessible regions of chromatin do not have typical nucleosome structures. In other words, they are not condensed or highly condensed regions of chromatin.

Aoki relates entirely to binding of RP58 to condensed or highly condensed chromatin. *See, e.g.*, Abstract, noting that "immunogold electron microscopic study revealed that almost all RP58 is localized in condensed chromatin regions."

Thus, Aoki cannot anticipate pending claims 57, 62-68, 70 and 71 and withdrawal of this rejection is in order.

### **35 U.S.C. § 102(E)**

Claims 57, 62-68, 70 and 71 were rejected as allegedly anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,482,587 (hereinafter "Robertson"). (Office Action, paragraph 6). Robertson was cited for teaching binding of LANA protein of KSHV to cellular chromatin.

As noted above, the pending claims are drawn to complexes between an exogenous molecule and a binding site in an accessible region of cellular chromatin. Furthermore, the binding site comprises a target site (a nucleic acid sequence) to which the exogenous molecule binds. *See, e.g.*, page 3, lines 21-25 and page 10, lines 18-19 and page 11, lines 1-4 of the specification. Thus, the binding site in the claimed complex includes a nucleic acid sequence to which the exogenous molecule binds.

In contrast, the LANA protein disclosed in Robertson binds to a protein, namely histone H1. *See, e.g.*, claim 1 of Robertson and the passages cited by the Office, particularly column 2, lines 49-51. Accordingly, Robertson does not describe or demonstrate a complex between an exogenous molecule and a binding site in an accessible region of cellular chromatin as claimed. Therefore, withdrawal of the rejection is requested.

### **35 U.S.C. § 103**

Claim 69 was rejected under 35 U.S.C. § 103 as allegedly obvious over Robertson. (Office Action, paragraph 9). In addition, claim 60 was rejected as allegedly obvious over Aoki in view of Greisman and Neely. (Office Action, paragraph 10). Finally, claim 65 was rejected as allegedly obvious over Aoki in view of Greisman and Gross. (Office Action, paragraph 11). The

primary references, Robertson and Aoki, were cited as above under 35 U.S.C. § 102.

For the reasons noted above, Robertson and Aoki do not teach or suggest complexes as set forth in claims 60, 65 or 69. With regard to claim 69, Applicants note again that whereas the claimed complexes necessarily bind to a nucleic acid sequence, Robertson's protein binds to another protein, namely histone H1. There is no teaching or suggestion in Robertson regarding binding of LANA (or any other exogenous protein) to a nucleic acid target site, as claimed by Applicants. Accordingly, claim 69 is patentable over this reference.


With regard to claims 60 and 65, Applicants note as above that Aoki does not teach or suggest a complex in which an exogenous molecule is bound to an accessible region in chromatin. Rather, Aoki teaches specifically that RP58 binds to a region in condensed, un-accessible chromatin. Therefore, there is no combination of Aoki and any of the secondary references that renders pending claims 60 or 65 obvious and withdrawal of the rejection is respectfully requested.

**CONCLUSION**

In view of the foregoing remarks and amendments, Applicants submit that the claims are in condition for allowance.

Respectfully submitted,

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